

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MINNESOTA**

Marcia Reiter,

Plaintiff,

v.

TMT Woodbury Apartments, Inc.,

Defendant.

Case No. \_\_\_\_\_

**DEFENDANT TMT WOODBURY  
APARTMENTS, INC.'S NOTICE OF  
REMOVAL**

**NOTICE OF REMOVAL**

Defendant TMT Woodbury Apartments, Inc. (hereinafter “TMT”), by and through its undersigned counsel, files this Notice of Removal, removing the above action from the Hennepin County District Court, Minnesota, to the United States District Court, District of Minnesota. Removal is based upon diversity of citizenship and amount in controversy.

**Statement of Removal**

1. On or around November 19, 2020, Plaintiff Marcia Reiter (“Plaintiff”) commenced a civil action in the Hennepin County District Court, Minnesota, by serving a Complaint on TMT (hereinafter “the Action”). The Action is the subject of this Notice of Removal.

2. Pursuant to 28 U.S.C. § 1446(a), a true and accurate copy of Plaintiff’s Complaint and the Summons are attached and incorporated by reference as Exhibit A. A true and correct copy of the Service of Process Transmittal is attached as Exhibit B.

3. Thus, this Notice of Removal is timely because pursuant to 28 U.S.C. § 1446(b), TMT has thirty (30) days from receipt of the Summons and Complaint by proper service in which to remove to federal court, and TMT did not waive service prior to the filing of this Notice.

4. TMT now timely files this Notice of Removal before its 30-day removal deadline has expired. By filing this Notice of Removal, TMT does not waive any defenses that may be available to it.

#### **Amount in Controversy**

5. Pursuant to 28 U.S.C. § 1441(a), removal of an action originally brought in state court is proper in “any civil action brought in a State court of which the district courts of the United States have original jurisdiction.” 28 U.S.C. § 1441(a).

6. Further, 28 U.S.C. § 1332(a) provides that “[t]he district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interests and costs, and is between...citizens of different states.” 28 U.S.C. § 1332(a).

7. The Action involves a claim in excess of \$75,000, exclusive of interests and costs, arises between citizens of different states, and lies within the original subject matter jurisdiction of this Court. *See* 28 U.S.C. § 1332(a). Plaintiff alleges damages in the amount of \$470,000. (Demand, Ex. C). Such damages are in excess of the \$75,000 threshold necessary for removal in a diversity of citizenship case. “In the Eighth Circuit, district courts rely on the plaintiff’s perspective in determining the amount in controversy. *See Smith v. Am. States Preferred Ins. Co.*, 249 F.3d 812, 813-14 (8th Cir. 2001). A plaintiff’s

settlement demand is relevant to the determination of the amount in controversy. *See, e.g., McPhail v. Deere & Co.*, 529 F.3d 947, 956 (10th Cir. 2008).” *Groeneweg v. Flint Hills Res., LP*, No. 08-4815 (DWF/FLN), 2008 U.S. Dist. LEXIS 93723, at \*5 (D. Minn. Nov. 18, 2008) (deeming a plaintiff’s \$85,000 settlement demand sufficient to satisfy the amount-in-controversy requirement of 28 U.S.C. § 1332) (citations in original).

8. In removing the Action to this Court, TMT does not admit any allegations and does not waive any defenses it may have to Plaintiff’s claims.

### **Diversity of Citizenship**

9. In addition to meeting the amount in controversy threshold provided by 28 U.S.C. § 1332(a), the statute requires the parties to meet diversity jurisdiction by being “citizens of different States.”

10. As alleged in Plaintiff’s Complaint, Plaintiff Marcia Reiter is a resident of the City of Woodbury, County of Washington, State of Minnesota. (Exhibit A, ¶ I).

11. At all relevant times, including when the Complaint was served, TMT was and is a Delaware corporation with its principal place of business in California.

12. There are no other defendants named or served to date. Therefore no other defendants would be required to consent to, and join in, this Notice of Removal.

13. Corporate citizenship is determined by a corporation’s state of incorporation and the location of its principal place of business. *See* 28 U.S.C. § 1332(c)(1). Accordingly, Plaintiff is a citizen of Minnesota. TMT is a citizen of Delaware and California.

14. Removal of this case is proper under 28 U.S.C. § 1441 and 28 U.S.C. § 1332, because complete diversity of citizenship exists between the Plaintiff and TMT, and the amount in controversy exceeds Seventy-Five Thousand Dollars (\$75,000), exclusive of costs and interests.

**Service of Notice on Plaintiff and State Court**

15. TMT will promptly file a written notice of this Notice of Removal's filing with the Hennepin County District Court, Minnesota, after filing this Notice of Removal, and will serve the Notice upon Plaintiff pursuant to 28 U.S.C. § 1446(d).

16. TMT has sought no similar relief with respect to this matter.

17. In compliance with 28 U.S.C. § 1446(a), true and correct copies of all "process, pleadings, and orders" served in the state court action are attached hereto:

<b>EXHIBIT</b>	<b>DOCUMENT TITLE</b>	<b>DATE</b>
A.	Summons and Complaint	November 18, 2020
B.	Service of Process Transmittal	November 19, 2019

WHEREFORE, TMT respectfully requests that the above-captioned case now be removed to the United States District Court, District of Minnesota.

Dated this 8<sup>th</sup> day of December, 2020.

By: s/ Ryan P. Malone

Michelle R. Gilboe, SB# 0260411

Ryan P. Malone, SB# 0395795

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Attorneys for Defendant TMT Woodbury  
Apartments, Inc.

### **CERTIFICATE OF SERVICE**

I hereby certify that on December 8<sup>th</sup>, 2020, I caused the foregoing document and its exhibits and the notice of electronic filing to be mailed by first class mail, postage paid, to the following:

**Brian D. Stofferahn  
Halunen Law  
1650 IDS Center  
80 South 8th Street  
Minneapolis, MN 55402**

Dated this 8<sup>th</sup> day of December, 2020.

By: s/ Ryan P. Malone

Ryan P. Malone, SB# 0395795